Preparing for Change in British Columbia's Public Forests

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2002 Annual Report

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Forest Practices Board

The Honourable Michael de Jong
Minister of Forests

The Honourable Joyce Murray
Minister of Water, Land and Air Protection

The Honourable Stan Hagen
Minister of Sustainable Resource Management

The Honourable Richard Neufeld
Minister of Energy and Mines

Dear Ministers:

It is with pleasure that I submit to you the Annual Report of the Forest Practices Board for the calendar year 2002, in accordance with section 189(1) of the *Forest Practices Code of British Columbia Act*. This report contains information on the affairs of the Board for the year ending December 31, 2002.

Yours sincerely,

Bill Cafferata
BOARD CHAIR
VICTORIA, BRITISH COLUMBIA

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The Forest Practices Board

The Forest Practices Board serves the public interest as the independent watchdog for sound forest practices in British Columbia. It exists to ensure forests are soundly managed to sustain the full range of forest values and forest resources for British Columbians.

The Board was created under the Forest Practices Code in 1995. In 2002, its mandate was confirmed under the new *Forest and Range Practices Act*. The Board will continue to: audit tenure holders and government ministries for compliance with, and enforcement of, forest practices legislation; deal with complaints from the public regarding forest planning and practices under, and government enforcement of, forest practices legislation; carry out special investigations and issue special reports as the Board sees appropriate; request administrative reviews of approved forest development plans; participate on behalf of the public in reviews of penalty determinations; and participate in appeals to the Forest Appeals Commission.

Legislation ensures Board independence from licensees and the government. While the Board provides reports to the Minister of Forests, the Minister of Water, Land and Air Protection, the Minister of Sustainable Resource Management and the Minister of Energy and Mines, its reports and findings are not provided to government for revision or comment in advance of public release. When the Board deals with an audit of, or complaint about, a government operation, that operation is entitled to the same level of information about the Board's preliminary findings as any other auditee or complaint subject.

The Board's funding comes directly from Treasury Board, which helps to insulate it from funding pressures that might arise from an association with any of the four Code ministries. The Board also has the powers granted by the *Inquiry Act* to compel the giving of evidence in the course of its investigations, and it has the authority to audit and investigate government's forest practices and enforcement actions.

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Chair's Message

Forest Practices Board Chair Bill Cafferata

This report focuses mainly on the Board's progress on directions established during its last strategic planning session in 2000, and the Board's response to the replacement of the *Forest Practices Code of British Columbia Act* by the *Forest and Range Practices Act*.

In July 2000, the Board set three strategic directions:

- focus on results of forest practices on the land;
- be involved in the evolution of the Forest Practices Code; and
- inform, and be informed by, the public.

By focusing on the land, the Board can express a credible opinion about how compliance with the Forest Practices Code affects forest values. The Board assessed the results of forest practices on the land in two ways. One was to carry out area-based audits. By selecting an area of the landscape with well-defined natural boundaries, and auditing all operations within that area that are within our jurisdiction, we can give the public a better description of the state of the forest. An expected side-benefit was to achieve cost efficiencies.

"Much change is ahead for the Board – our role in the new legislation continues to be defined, and we continue to evolve as we learn from our fieldwork, the public, and the people who deal with the Board."

We completed five area-based audits in 2002. At this writing, results are mixed. While we were able to report more comprehensively about the audit area, we found that we could not fairly assess the performance of some licensees because most of their operations were on the portion of their licence outside the audit area.

We also experimented with reporting individually for all activities by each of the licensees in the audit area, but found this method complex, time consuming and costly. Nonetheless, we have seen a high number of downloads of the Fort Nelson report from our website. We take this as an indication of public interest in this type of reporting, and in the free-to-grow obligation issues raised in the report.

Our second approach to assessing impacts on the land base was to conduct a "thematic" audit or investigation. Our special investigation on the impacts of cattle grazing near riparian areas, for example, was focused on a single issue and did not report individually on each licensee within the audit area. We feel we provided the public with a clear understanding of our findings about the condition of riparian areas in the four forest districts examined. This approach also proved to be both timely and cost effective.

Based on the learning from 2002, and from audits that are currently being brought to completion, it is likely that the Board will shift to more use of narrowly focused "thematic" audits and special investigations in the future. In this way, we also achieve our strategic goal of applying lessons learned from one year to our practices the following year.

The Board's focus on the evolution of the Code was particularly appropriate given government's introduction of an objectives-based forest management regime, the *Forest and Range Practices Act*. Our usual means of influencing the regulations is by recommending government address areas of the Code that need improvement. While this process met with some success in 2002, some responses to our recommendations were deferred pending introduction of the new regulations.

The Board commented on the new Act during both the public and stakeholder consultation processes. Our initial concerns were about the reduced opportunity for public involvement in forest planning, imprecision about how results were to be measured, and the reduced requirements for assessments prior to implementation of operational plans. At the time of this writing, some of our concerns have been addressed. When the regulations that will accompany the *Forest and Range Practices Act* are available, we will again assess how fully our concerns have been met.

The Board's mandate under the new Act is equal to its mandate under the *Forest Practices Code of British Columbia Act*. In some ways, the Board may have more flexibility to report on the effectiveness of the new Act—by reporting on the results achieved through forest stewardship plans, for example.

In 2002, the Board asked those people who have dealt with the Board about how we performed. We learned that this group sees the Board as being independent of political or stakeholder influence, a source of high quality work, and having competent staff who are respectful of the people they deal with. The same audience feels the Board needs to do a better job of influencing improvements in forest practices, achieve more timely reports, and devote more resources to finding solutions to problems rather than completing formal investigations.

Much change is ahead for the Board—our role in the new legislation continues to be defined, and we continue to evolve as we learn from our fieldwork, the public, and the people who deal with the Board. Managing and planning for these changes was the focus of a strategy session the Board undertook in February 2003.

This is my last report as chair of the Forest Practices Board. My term expired January 31, 2003, and the government is in the process of identifying and appointing a new chair.

I express my appreciation to the part-time Board members who have devoted considerable time and energy to serve the BC public while I have been chair: John Cuthbert, Ingrid Davis, Mark Haddock, Klaus Offermann, Liz Osborn and Fred Parker. I also congratulate Liz Osborn on her re-appointment to the Board as Vice-Chair, and welcome our newly appointed part-time Board members: Tyler Elm, Fred Lowenberger and David Mannix.

Finally, a special note of recognition to the staff of the Board. They have been unstinting in their work to ensure the success of the Board, while dealing with the uncertainty introduced into their careers as a consequence of dramatic organizational change.

Board Members

JOHN CUTHBERT
Part-time Vice-Chair

Forester with a long distinguished career with the Ministry of Forests, including nine years as chief forester for the province. Resident of Summerland, BC

LIZ OSBORN
Part-time Vice-Chair

Consultant with wide experience and education in natural resources policy, planning and research. Resident of Telkwa, BC

TYLER ELM
Part-time Board Member

Principal consultant with IBM Business Consulting Services. Resident of Vancouver, BC

FRED LOWENBERGER
Part-time Board Member

Forest industry consultant. Resident of Coquitlam, BC

DAVID MANNIX
Part-time Board Member

Forestry business consultant to coastal BC First Nations. Resident of Nanaimo, BC

Financial Information

The Board continues to meet its diminishing funding targets. In the 2002/03 fiscal year, the Board's operational funding stood at $4,822,000. In 2003/04, the funding level drops to $4,344,000, and in 2004/05, it is expected to level off at $3,307,000. To meet these targets, the Board reviewed its expenditure categories in detail, implemented administrative and operational efficiencies, and reduced staffing levels. From a high of 35 staff at the beginning of the 2002/03 fiscal year, the Board will start 2003/04 with 26 employees, and will further reduce to 24 for the 2004/05 fiscal year.

Expenditures - January 1 to December 31, 2002
Unaudited Information

		OPERATIONAL EXPENDITURES					
	Board Members & Executive	Complaint Investigations	Audits	Reviews and Appeals	Spec. Projects & Communications	Administrative Expenditures	Total
Total Salaries and Benefits	312,315	656,762	816,538	288,641	383,901	248,807	2,706,964
Total Operating Costs	132,884	99,339	736,948	16,109	149,435	544,227	1,678,942
Total Capital Expenditures	0	0	0	0	0	103,463	103,463
Total Expenditures	445,199	756,101	1,553,486	304,750	533,336	896,497	4,489,369
Budget							4,990,731

Notes:

1. The calendar year 2002 combines the last three months of fiscal year 2001/2002 (January to March) and the first nine months of fiscal year 2002/2003 (April to December).

2. The Board's budget for calendar year 2002 was $4,990,731. (This is the amount accounted of by the calendarized appropriations from fiscal year 2001/2002 and 2002/2003 of $1,252,180 and $3,738,551, respectively, allocated to the 2002 calendar year). During 2002, the Board's expenditures totalled $4,489,369.

3. Board members and executive expenditures cover those of the Chair of the Board, the part-time Board members, those associated with the office of the Executive Director, and those of staff providing direct support to the Board members.

4. Reviews and Appeals expenditures cover legal advice on all files of the Board.

Auditing Forest Practices and Code Enforcement

The Forest Practices Board undertakes periodic, independent audits of compliance with the Forest Practices Code and the appropriateness of government enforcement of the Code. The Board chooses which operations will be audited, using specialized software to randomly select areas, licences and forest districts for audit.

Accomplishments in 2002

The Board defined a number of goals for its audit program in 2002: undertaking independent audits of industry and government's performance to reinforce the application of sound forest practices throughout the province; random selection of area-based sets of audits which can include major licensees, the Ministry of Forests' small business program (SPFEP) and small-tenure licences in the area (along with an enforcement audit on the appropriateness of government's enforcement of the Code in the area); annual compliance and enforcement audits pursuant to the Nisga'a Treaty; and collaboration with industry regarding Board audits of previously-certified operations.

All of these goals were achieved in 2002. Seven audits were conducted in 2002: four area-based audits; one full-scope compliance audit; the second Nisga'a audit; and one full-scope compliance audit of a licensee with operations that have undergone a certification audit. The Board conducted four area-based sets of audits involving compliance of the SBFEP, major licensees and small-tenure licences in the four areas. This is the first comprehensive look at forest practices of woodlots and small-tenure licences.

Significant Non-Compliances by Activity, 1996-2001*

(*audit fieldwork from 2002 has not yet been reported)

Activity Audited	1996 4 audits	1997 9 audits	1998 9 audits	1999 9 audits	2000 10 audits	2001 9 audits	Total
Operational planning	2		1				3
Forest health	1	1	2				4
Harvesting		3		1			4
Riparian management	2	3	2			3	10
Windthrow management		1		1			2
Roads	5	9		3		1	18
Bridges		1	1	3	1	1	7
Erosion control	2					1	3
Silviculture						1	1
Fire protection				1			1
Totals	12	18	6	9	1	7	53

Each area-based audit also examined the compliance and enforcement organization and activities of the agencies with Code responsibilities for each audit area.

The Board also completed and published five audits carried out in 2001. In an audit of a Ministry of Forests SBFEP published in 2002, the Board found a lack of attention to bridge inspections and repairs that created a safety risk to drivers of industrial vehicles and the public who use forest service roads for recreation. Following the Board audit, the forest district acted quickly to minimize the risk to public safety and the environment.

In its first audit of Nisga'a lands in 2001, the Board found one licensee using outdated silviculture prescriptions that did not match current requirements, meaning that their practices did not accurately reflect an achievable goal for that landbase. In its 2002 audit of the same licence, which was published in early 2003, the Board noted this licensee has carried out significant work to address the issues identified in the earlier audit. All of the licensee's cutblocks visited in 2002 had their silviculture prescriptions amended since 2001 to eliminate any inaccuracies or unachievable prescriptions.

Quoting again from the 2001 Nisga'a audit, the Board found problems with the road and bridge inspections and maintenance of another licensee operating on Nisga'a land. The 2002 audit of the same licence found work has been completed on those issues identified the previous year. The Board is pleased that its 2001 audit has resulted in improved forest practices on Nisga'a lands.

A significant achievement for the Board in 2002 was the full-scope compliance audit of a licensee certified to ISO 14001 and in the process of being certified to the Sustainable Forestry Initiative (SFI) standards. The Board modified its compliance audit standards in this audit to assess the audit work conducted by the SFI certifiers, and to confirm the effectiveness of the certifier's audit process. This new approach resulted in significant cost savings to the licensee and the Board, and the experience will help us to apply a similar approach in future audits where the licensee is also independently certified.

The Board also sought to measure its performance in 2002 through a survey of individuals, companies and agencies that have been involved in a Board audit. The survey found the following:

- 83 percent of respondents found Board staff was accessible and approachable during the audit process;
- 80 percent found audit fieldwork was completed in a timely manner.

Given how stressful an audit can be for the auditee, the Board feels these findings are an important indicator of success. The survey also found:

- 79 percent of respondents found the audit process thorough and complete;
- 75 percent found the audit process fair and non-adversarial;
- 66 percent found the process easy to understand, and found the Board's reasoning was clear; and
- 54 percent of respondents found reports were not completed in a timely manner.

The audit program is working hard to address this last concern, and our goal is to publish audit reports before March 31 of the following calendar year.

Findings on the ground from reports published in 2002

The Board found some level of concern in each of the five audits published in 2002. The problems ranged from inadequate government compliance and enforcement of Code range practices, to risks posed to streams by pipeline construction. If a common thread can be found, it may be that the Board is now fulfilling its mandate more broadly by auditing all aspects of the Code, not just forest practices. For example, the area-based audit in the Fort Nelson Forest District found significant concerns about regeneration of trees after logging, but also found potential erosion and stream damage from pipeline construction, inconsistent standards for oil and gas activities, and gaps in Forest Practices Code enforcement.

The Board made formal recommendations in three of the five audit reports published in 2002.

In its area-based audit in the Fort Nelson Forest District, the Board recommended that the Oil and Gas Commission review and improve its road approval framework to ensure consistent environmental standards. The deadline for a response is March 31, 2003.

In the Board's audit of range practices in the Horsefly Forest District, the Board recommended the Ministry of Forests implement a more effective range compliance and enforcement program in the area. The deadline for a response is March 31, 2003.

In the Nisga'a audit published in 2002, the Board recommended one licensee evaluate its silviculture prescriptions to ensure that current field information is included. No deadline was established, but the Board's Nisga'a audit conducted in 2002 found that the recommendation has been fully implemented.

Future direction

The audit section's service plan goals for the coming year include conducting eight audits, completing all audits within the same fiscal year, publishing a manual to inform the public of how the Board will operate within the new regulatory framework, and publishing a report on how Board audit procedures recognize and complement industry certification audits. The Board has made some progress on the last goal, as it conducted an audit of a certified licensee this year, and now has some experience in how the two processes can work together.

Adapting to the *Forest and Range Practices Act*

The government's new objectives-based code will pose a challenge to the Board's audit section. The increased reliance on industry and professionals to ensure our forests are soundly managed will make the Board's independent oversight role more important than ever. The Board acts as a check and balance to protect the public's interest in management of the forest resource.

Clear, enforceable and measurable objectives for key resource values will be necessary to ensure that the new Act is effective and auditable. At the time of this report's writing, neither the regulations for the *Forest and Range Practices Act*, nor the objectives for key resource values have been established. When this information becomes available, the Board will revisit its audit methodology and identify any modifications required for auditing the new requirements.

TABLE 1 - Audits Completed in 2002

AUDITEE ALLOWABLE ANNUAL CUT LOCATION	ACTIVITIES AUDITED	FINDINGS
Skeena Cellulose Inc Tree Farm Licence (TFL) 1 611,000 m3 Kalum Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection	The audit found significant non-compliance with Skeena Cellulose's implementation of planned harvesting practices in riparian areas. Otherwise, the licensee's forest planning and practices were in compliance, in all significant respects, with Code requirements for operational planning; silviculture; fire protection; and road construction, maintenance and deactivation activities. Report released July 2002
Horsefly Forest District Range Agreement Holders (Licensees) Government Enforcement of the Code	- range use planning - forage utilization - stocking levels - riparian management - maintenance of range development such as fences - cattle management - control of noxious weeds - hay cutting activities - government enforcement - effectiveness of enforcement	The audit identified a situation of significant non-compliance with the Code involving over-utilization of forage within a riparian area. Otherwise, range planning and practices carried out under the range agreements audited complied, in all significant respects, with Code requirements for range-use planning, grazing and hay cutting. The Board found the district did not have an effective compliance and enforcement program for range practices at the time of the audit. The district did perform some inspections, but they were not focused on higher risk sites, such as sensitive areas around water bodies. The district also failed to keep inspection information on file for future reference. Range-use planning was consistent with relevant aspects of the Cariboo-Chilcotin Land-Use Plan. Report released July 2002
Small Business Forest Enterprise Program (SBFEP) Soo TSA 115,789 m3 Tree Farm Licence 38 13,118 m3 Squamish Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection	The audit identified a situation of significant non-compliance with respect to bridge inspections and maintenance, resulting in a potential user-safety issue. Otherwise, the Squamish SBFEP and TSL majors included in the audit complied, in all significant respects, with the Code's requirements for: operational planning; timber harvesting; fire protection; road construction, maintenance and deactivation; and silviculture activities and obligations. Report released August 2002

TABLE 1 continued

AUDITEE ALLOWABLE ANNUAL CUT LOCATION	ACTIVITIES AUDITED	FINDINGS
First annual audit of Nisga'a Lands Small Business Forest Enterprise Program (SBFEP) Skeena Cellulose Inc Sim Gan Forest Corporation West Fraser Mills Ltd. Government enforcement of the Code 10,000 m3 Kalum Forest District	- operational planning (including forest development plans and silviculture prescriptions) - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection - government enforcement of the Code	The audit found that the SBFEP and West Fraser complied with the Forest Practices Code and the Nisga'a Final Agreement in all significant respects, while Sim Gan and Skeena both had some instances of non-compliance related to maintaining roads and harvesting near streams. The audit also found that even though two BC government ministries - Forests and Water, Land and Air Protection - could be involved in Code enforcement in the audit area, formal Code enforcement is only performed by the Ministry of Forests, and no systematic co-ordination exists between the ministries to achieve Code purposes. The Board also expressed its concern with the frequent minor non-compliances, specifically related to harvesting practices and planning in areas close to streams, that were not identified by the Ministry of Forests' compliance and enforcement inspections on Nisga'a lands. Report released August 2002
Fort Nelson Area Audit Slocan Forest Products - Pulpwood Agreement 14 Tackama Forest Products FL A17007 FL A22707 1,284,716 m3 Anadarko Canada Corporation Berkley Petroleum Corporation Petro-Canada Corporation Government enforcement of the Code Three range tenures Small Business Forest Enterprise Program (SBFEP) Fort Nelson Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection - range obligations under the Code - Code-related oil and gas activities - Code enforcement by government and the Oil and Gas Commission	The audit found that within the audit area, Slocan Forest Products had not replaced harvested cottonwood trees with free-growing stands within the specified time in most of the valley bottoms examined. This was the most serious non-compliance encountered; however, the Board notes that Slocan is addressing this problem. The significant non-compliance found in the oil and gas sector was pipeline construction that had potential to cause erosion and damage to streams. There was too little evidence to determine how much the sedimentation from oil and gas activities had affected fish habitat. Within the audit area, the Board found a lack of inspections of oil and gas activities by the Ministry of Forests and the Oil and Gas Commission and an overall lack of Code enforcement by the Ministry of Water, Land and Air Protection. The Board found a confusing array of legislation covering road construction for oil and gas activities and recommends government streamline and simplify the regulations for road construction, while ensuring appropriate environmental standards are in place. Other activities were very limited. Range tenures were either inactive or complied with the Code in all respects. For the SBFEP, a small amount of operational planning was conducted within the audit area during the audit period and no issues were noted. The Canadian Chopsticks Manufacturing Company's forest licence had expired at the time of the audit. Report released October 2002

TABLE 2 - Audits Undertaken in 2002

AUDITEE ALLOWABLE ANNUAL CUT LOCATION	ACTIVITIES AUDITED	STATUS (AT DEC. 31, 2002)
Area-based audit Forest licence holders Crown woodlot licence holders Tenure holders Government enforcement of the Code South Island Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection - government enforcement of the Code	Field work has been completed, and the audit is at the reporting stage
Area-based audit Forest licence holders Crown woodlot licence holders Range licence holders Government enforcement Quesnel Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection - range activities - government enforcement of the Code	Field work has been completed, and the audit is at the reporting stage
Area-based audit Small Business Forest Enterprise Program Range tenures Forest licence holders Crown woodlots Government enforcement of the Code Merritt Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection - range activities - government enforcement of the Code	Field work has been completed, and the audit is at the reporting stage

TABLE 2 continued

AUDITEE ALLOWABLE ANNUAL CUT LOCATION	ACTIVITIES AUDITED	STATUS (AT DEC. 31, 2002)
Area-based audit Small Business Forest Enterprise Program Forest licence holders Range tenure holders Crown woodlot licence holders Government enforcement of the Code Kispiox Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - fire protection - range activities - government enforcement of the Code	Field work has been completed, and the audit is at the reporting stage
Second annual audit of Nisga'a lands Skeena Cellulose Inc. (FL A64298), SimGan Forest Corp. (FL A64299), West Fraser Mills Ltd. (FL A16882) Small Business Forest Enterprise Program (SBFEP) Kalum Forest District and Skeena Region of MWLAP	- operational planning - road construction, maintenance and deactivation - timber harvesting - silviculture - fire protection activities - district manager obligations	Report Released (See Table 1)
The Pas Lumber FL A18171 Prince George Forest District	- operational planning - road construction, maintenance and deactivation - timber harvesting - silviculture - fire protection activities - district manager obligations	Field work has been completed, and the audit is at the reporting stage
Pope & Talbot Tree Farm Licence (TFL) 23 Arrow Forest District	- operational planning - timber harvesting - road construction, maintenance and deactivation - silviculture - forest protection	Field work has been completed, and the audit is at the reporting stage

Investigating Forest Practices and Code Compliance

The Forest Practices Board investigates complaints from the public about operational planning, forest and range practices and enforcement of the Code. The Board must deal with complaints within its jurisdiction. That means that the Board normally investigates complaints, unless the Chair is of the opinion that there is a reason to refuse, consistent with the reasons set out in the Code.

Accomplishments in 2002

The Board defined success for its investigation program as: an efficient and respectful process that responds to public concerns and recommends improvements where needed; a timely reporting process that fairly and objectively represents the general public interest; having 80 percent of investigations completed within eight months; and having 10 percent of complaints addressed using alternative dispute resolution.

In 2002, many of those goals were accomplished. The Board sought to measure its performance in 2002 through a survey of individuals, companies and agencies that have been involved in a Board complaint investigation. The survey found the following:

- 93 percent of respondents feel Board staff and Board members treat complaint participants with respect;
- 69 percent of respondents feel the process is fair and non-adversarial;
- 65 percent of respondents feel the investigation was started promptly;
- 64 percent of respondents feel Board staff encourage complaint participants to resolve issues;

The survey identified areas where the Board's investigation process still needs to improve, however:

- only 40 percent of respondents feel the investigation report was completed in a timely manner;
- only 38 percent of respondents feel the Board investigation helped resolve problems.

The Board has succeeded in resolving more complaints informally using alternative dispute resolution, and continues to reduce the amount of time it takes to investigate and report on complaints. In 2002, for example, five complaints were resolved during the Board's investigation compared to only one in 2001. And the Board's average completion time for an investigation report in 2002 was under six months, compared to 9 months in 2001 and more than 16 months prior to 2000.

Findings on the ground

In the 32 investigation reports published in 2002, the following categories of concerns were most often addressed:

Water quality and water management

Complaints of this nature were mostly about the impacts of harvesting or cattle-grazing on water quality, generally in community watersheds. Of the seven reports of this nature, none found non-compliance with the Code by

either the licensee or government. The Board generally found a high level of cooperation from all parties toward resolving water quality issues.

Access management

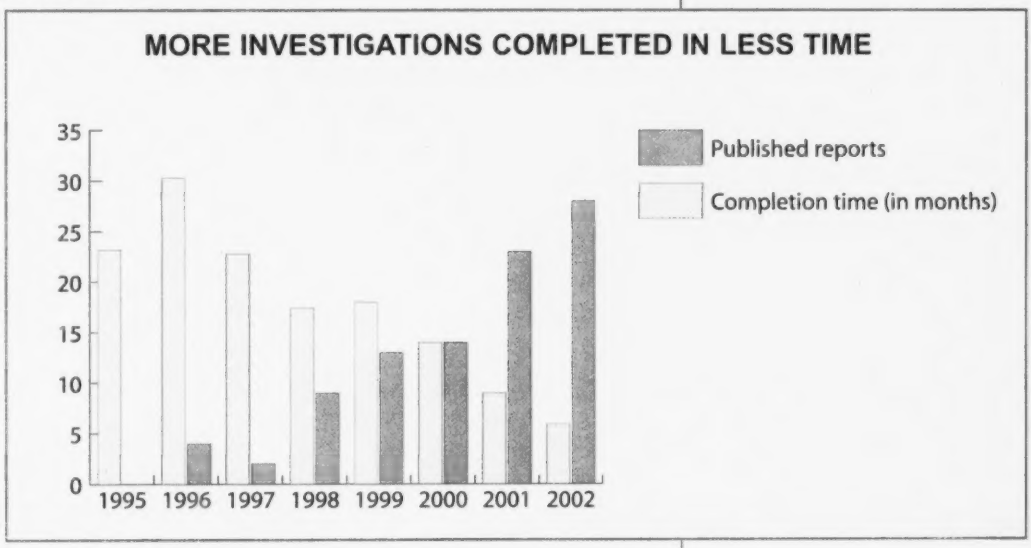
The Board completed six investigations in 2002 that stemmed from complaints about road access. In three of those situations, the access issues were resolved with the help of Board staff. In the other three, the Board found the Code was followed. However, the Board continues to comment that government needs to complete land use planning, and make those higher level plans legally enforceable, in order to create certainty where there are conflicts over access to the province's public forest lands.

Public review and comment

Five reports published in 2002 investigated whether public review and comment periods were flawed or inadequate. The Board did not make any findings of non-compliance in those reports, but in one case found that, even though the Ministry of Forests had complied with the Code, the decision not to include certain information in a forest development plan that was subsequently reviewed by the public did not promote sound forest practices. In another case, the complainant and licensee resolved the issue and the investigation was stopped.

Impacts to wildlife and habitat

Of the five investigations of wildlife-related matters in 2002, to varying degrees, all found the complainants made a good point. Even where the licensees or government complied with the Code, the Board recommended improvements to wildlife management. One case has particular relevance for the new *Forest and Range Practices Act*. The Board found an absence of explicit direction about intended control of public access to an area with high caribou and grizzly bear values, and commented that direction will need to be unambiguous and enforceable in order to adequately protect wildlife in the future.



Pine beetle management

Five reports published in 2002 concerned the need for a balance between fast action and protection of forest resources when pine beetle problems are identified. While the nature of each complaint was different, the outcome of most investigations showed that government and licensees appear to be seeking a logical balance rather than single-minded insect control when managing beetle infestations.

Issues identified in complaints received in 2002

Of the 10 new investigations undertaken and completed in 2002, issues included livestock management, water quality, road building and maintenance

practices, visual impacts, operational planning and professional reliance. In light of government's new *Forest and Range Practices Act*, the Board is watching the issue of professional reliance with great interest.

In BC's new objectives-based regulatory regime, responsibility is shifting from government to licensees for managing risk and deciding whether professional assessments are necessary before carrying out a forest practice. The Board published a report in 2002 (Complaint Investigation 010358 - *Bridge Design and Construction at Reiseter Creek near Smithers, BC*) that highlighted some of the challenges the new code will pose for the province's forest professionals. The risks involved in a bridge crossing a stream were not fully identified by the professionals involved, the licensee or the Ministry of Forests. A slump in the underlying ground occurred, causing the bridge to shift. The bridge had to be redesigned and constructed as a result. The environment was not damaged as a result, but there was potential for environmental damage and a risk to public safety.

That report continues to have an impact. Following the report's release, BC's professional foresters' and engineers' associations briefed their respective memberships on the need to oversee professional work and on the importance of communication between professionals working on the same projects. The Forest Engineering Institute is using the report as a case study, and the affected licensee has revamped its internal professional oversight and contracting procedures to prevent similar problems in the future.

Recommendations and responses

Five of the investigation reports published in 2002 included recommendations to government, industry or professional associations. Of those five, one report's recommendations were completely addressed, and professional organizations addressed the Board's recommendations in another report—the stream-crossing project report referred to above. Government asked to defer its response to that report and three others, until the new *Forest and Range Practices Act* is in place.

There were three additional investigation reports from previous years with responses due in 2002. Two of those responses were deferred pending the new legislation, and the Board has not seen action on its recommendations in the third report.

Future direction

The investigation section's goals for the coming year include maintaining the timeliness of reporting, and increasing use of alternative dispute resolution to resolve complaints. Specifically, the Board plans to continue to complete at least 80 percent of its investigation reports within six months, further improvement on last year's achieved goal of 80 percent completion in eight months. The Board will also strive to use alternative dispute resolution to resolve 25 percent of complaints in the coming year, up from the goal of 10 percent last year. The Board was successful in resolving 19 percent of complaints without a full investigation last year.

Adapting to the *Forest and Range Practices Act*

The government's new objectives-based legislation presents no significant change to how the Board conducts investigations. The focus will still be on compliance with the law and the appropriateness of government enforcement. However, as government takes a less top-down approach to prescribing forest practices, it's likely that investigations will scrutinize industry and professionals more closely than in the past. The Board will have to assess whether objectives, strategies and results are relevant, realistic, achievable and measurable.

TABLE 3 - Complaints received in 2002

FILE, LOCATION AND DATE RECEIVED	COMPLAINT	STATUS AT DEC. 31, 2002
020365 – Flat Lake Park 100 Mile House Forest District Jan. 17, 2002	New roads into cutblocks would increase fishing pressure on a high-quality fishing lake and decrease wildlife habitat.	Investigated and reported in Sept. 2002
020363 – CP 551 Bulkley/Cassiar Forest District Jan. 30, 2002	An approved cutblock will permit snowmobile access to an area classified as 'unresolved' in the recreational access management plan.	Investigated as part of complaint 020390 – Mount Seaton
020368 – Morrison Watershed Morice Forest District Jan. 24, 2002	The Ministry of Forests district manager should not have been satisfied that forest resources such as moose winter range, biodiversity and visual quality would be adequately managed and conserved in a plan to harvest in the Morrison watershed.	Stopped*
020370 – Clayoquot Sound South Island Forest District April 29, 2002	A forest development plan did not propose enough timber harvesting to address social and economic needs.	Investigated and reported in Nov. 2002
020380 – Fort Nelson Public Review Fort Nelson Forest District April 2, 2002	The public did not have an opportunity to review and comment on the planned logging of a cutblock.	Investigated and reported in Oct. 2002
020390 – Mount Seaton Bulkley/Cassiar Forest District April 19, 2002	The public did not have an opportunity to review and comment on the planned logging of a cutblock. The Ministry of Forests approved a silviculture prescription without regard for the potential impact of improved snowmobile access on backcountry skiing.	Investigated and reported in Sept. 2002
020391 – Pattison Creek Chilliwack Forest District April 19, 2002	Logging contributed to downstream flooding of Pattison Creek.	Stopped
020396 – Tindill Creek Robson Valley Forest District June 28, 2002	A contractor spilled oil near a rancher's grazing lease and drove a skidder through a stream.	Investigated and reported in Sept. 2002
020397– Vernon Range Vernon Forest District Dec 2, 2002	Wildlife is not adequately considered when the district manager approves grazing on Crown land, and the districts enforcement of cattle trespass is ineffective.	Open – under investigation

TABLE 3 continued

FILE, LOCATION AND DATE RECEIVED	COMPLAINT	STATUS AT DEC. 31, 2002
020398 – Vedder Mountain Chilliwack Forest District July 3, 2002	Government failed to adequately maintain a forest service road.	Investigated and reported in Dec. 2002
020399 – Trinity Creek Vernon Forest District June 4, 2002	A licensee ran heavy machinery through a stream that may be fish-bearing.	Stopped
020403 – Quesnel Range Quesnel Forest District June 25, 2002	A range licensee's cows knocked down a neighbour's fence and trespassed, Ministry of Forests enforcement efforts were not appropriate, and the grazing permit was not legal.	Investigated and reported in Sept. 2002
020404 – Pike Creek Kalum Forest District June 25, 2002	The Ministry of Forests delayed making an enforcement decision, preventing a logger from returning to work.	Stopped
020412 – Kettle Range Boundary Forest District July 16, 2002	Cattle grazing exceeded approved levels and government enforcement was inadequate.	Investigated and reported in Dec. 2002
020413 – Sechelt Boundary Sunshine Coast Forest District July 16, 2002	A licensee did not show the municipal boundary of Sechelt in the correct place on its forest development plan maps.	Resolved without investigation
020417 – Malaspina Peninsula Sunshine Coast Forest District Aug. 13, 2002	The Ministry of Forests may not have adequately considered public concerns about potential category A cutblocks proposed on the Malaspina Peninsula near trails, recreation areas and sensitive ecosystems when deciding whether to approve an operational plan.	Stopped
020425 – Walbran Windthrow South Island Forest District Sept. 3, 2002	Trees that were to be retained in a stand, as per the operational plan, were blown down by wind.	Open - under investigation
020426 – Devine Review Squamish Forest District Aug 30, 2002	Public consultation for planned logging by an MOF SBFEP around the community of Devine was inadequate.	Stopped

TABLE 3 continued

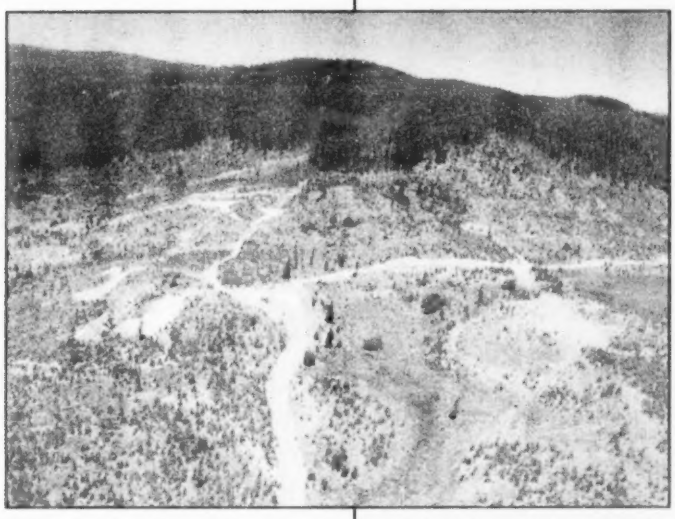
FILE, LOCATION AND DATE RECEIVED	COMPLAINT	STATUS AT DEC. 31, 2002
020432 - Chilcotin Range Chilcotin Forest District Nov 19, 2002	It was not reasonable or fair for the Ministry of Forests to refuse to issue a temporary range tenure to a rancher.	Open – under investigation
020434 – Tommy Creek Lillooet Forest District Sept 19, 2002	Blast rock from road construction was sidecast into Tommy Creek, impacting fish habitat.	Stopped
020438 – Schroeder Creek Kootenay Lake Forest District Oct 2, 2002	Poor road construction caused a series of landslides.	Open – under investigation
020439 – Clearwater Demonstration Forest Clearwater Forest District Oct 15, 2002	The Ministry of Forests' approval to harvest timber and construct roads immediately beside private property was not appropriate.	Open – under investigation
020441 – Tangier River Road Deactivation Columbia Forest District Oct 17, 2002	A trapper's interests were not adequately considered in approval of road deactivation in the Columbia Forest District.	Resolved without investigation
020448 – Sweetwater Springs Salmon Arm Forest District Nov 7, 2002	Complainant was not allowed to build a fence, at no cost to the Crown, around a creek to keep cattle out of a drinking water source.	Open – under investigation

** If a complaint is within the Board's jurisdiction, it must be investigated unless there are grounds to refuse. The reasons the Board may refuse to investigate a complaint, or stop an investigation, are set out in section 177(2) of the Code.*

Special Investigations and Reports

In addition to audits and investigations of complaints, the Board undertakes special investigations and provides special reports to the public and Code ministers about matters relating to the Board's duties and important Code-related forestry issues. This role differs from the audits and investigations role, in that the issues investigated are not random or generated by public complaints.

This is where the Board members choose the scope and subject matter they investigate and report on. Special projects are often sparked by observations in the course of regular audits and investigations.



Licensee obligations to create free-growing stands of trees was the subject of Board work in 2003

Accomplishments in 2002

The Board's goals for the special investigations and reports program for 2002 were: to conduct assessments of the efficacy of the Forest Practices Code in achieving desired results on the ground, and to publish three results-oriented and area-based reports on topics of public concern. The Board exceeded its goals by publishing one special investigation, three themed special reports, and three reports summing up the Board's investigation, audit, and review and appeal work from its inception through 2001.

In 2002, the Board released its special report on range practices in riparian areas. This project assessed how well range management practices under the Code provided for protection of the sensitive zone in and adjacent to streams, lakes and wetlands—called the riparian zone. That report is discussed in more detail on page 22.

This study was essentially a snapshot in time, and did not measure trends. However, there are some valuable lessons to be learned from this work. The Board made a number of recommendations to government to improve the current legislative and policy framework for range management. Once it is completed, the *Forest and Range Practice Act* will be assessed to see how well it addresses the range practice concerns identified by this study.

In 2002, the Board also began a new project examining the achievement of free-growing stands across the province. Cutblocks logged in the late 1980s and early 1990s have now reached the latest date by which they should have achieved free-growing status, as per the silviculture prescriptions. An obligation to create a free-growing stand in a defined time period is one of the few results required of licensees under the Forest Practices Code. This obligation dates back to 1987. That report should be published in Spring 2003.

The Board also wrapped up fieldwork on two special reports in 2002, which were published in early 2003. Both reports received significant public, stakeholder and government attention. They are discussed in greater detail in the Review and Appeal section of this report.

The Board also published three summary reports in 2002, providing an overview of the findings from audits, complaint investigations and review and appeal cases the Board undertook from 1995-2001. These reports provide an interesting look at issues, trends and results of forest practices under the *Forest Practices Code of British Columbia Act*.

Future direction

The Board plans to publish three special investigations or reports in the coming year. Currently in progress are the special reports on biodiversity and free-growing obligations, and topics being considered for additional special reports are mountain pine beetle harvesting, caribou habitat and windthrow management.

Adapting to the *Forest and Range Practices Act*

The introduction of the new Act will see a shift to objectives-based regulation. There is considerable public debate over whether a regulatory system based on measurable results will work. The new Act presents no significant change to the Board's authority to conduct special investigations and reports. However, the requirement to achieve results will see the Board shift further towards examining effectiveness of forest practices and achievement of the desired results on the ground. The Board is watching government's development of an effectiveness-monitoring program for the new legislation and we will endeavour to provide timely and relevant information about forest practices to the public and government, while minimizing any duplication of effort with government's own effectiveness monitoring activities.

The Board's upcoming report on the success of licensees in achieving free-growing stands will be an important case study for assessing the objectives-based approach to forest management, as well as providing important information on achievement of the anticipated results.

Range Practices in Riparian Areas

In March 2002, the Board published a report on the current health of riparian areas (areas next to streams, lakes and wetlands) where livestock grazing is the primary land use. Nearly 400 sites, including 75 pastures, were examined in the Cranbrook, Kamloops, Penticton and Horsefly Forest Districts.

The Board assessed the extent to which livestock use riparian areas, the current condition of these areas and whether the current Code requirements appear to be achieving the intent of the Code.

The Board found that cattle do not heavily use the majority of riparian areas surveyed. About 12 percent of riparian areas were heavily used, primarily in grasslands and grassland openings around wetlands.

The Board also found that 71 percent of wetlands and streams surveyed were in proper functioning condition, but 17 percent of sites were at risk and 13 percent were non-functional. The streams and wetlands in the wetter climatic zones, such as the Horsefly district, were generally in the best health, while those in the driest climatic zones, such as the Cranbrook district, had only 49 percent of the sites at proper functioning condition.

In addition to being the subject of a special report in 2003, cattle grazing near riparian areas was the subject of several complaints

A positive finding of the assessment was that riparian zones in community watersheds fared well. Overall, riparian health was higher and faecal deposits (cowpies) in riparian zones were lower in community watersheds than for the other sites examined.

The Board found that Code requirements are adequate for protecting riparian areas, but that government needs to develop a better definition of proper functioning condition so it can be measured and audited more objectively.

Similarly, more measurable goals in the range practices regulations for limits on soil disturbance, channel disturbance and cowpies must be developed.

The Board also noted problems with one of the main tools used to manage cattle use of riparian areas: the grazing schedule. In some dry years, the riparian areas may become damaged from overgrazing, but there is no requirement to remove the cattle from the pasture to prevent further negative impacts. The Board recommended a specified limit to forage utilization in riparian areas, rather than sticking to a grazing schedule.

The overall results of the survey indicate that a significant number of streams, lakes and wetlands are not functioning at an acceptable level, particularly in the drier areas in the interior of the province. As BC moves to objectives-based regulation, it is critical that the expected results for range practices are clearly defined and well understood by the ranching community so similar problems can be avoided in the future.

Reviews and Appeals

Just as companies can appeal fines and government orders, the Forest Practices Board can appeal both government decisions and the failure to make decisions. The Board also has a unique right to request reviews of forest development plan approvals under the current Code, where the public interest would be served by doing so.

The Board's role in reviews and appeals is different from the impartial role it plays in audits and complaint investigations. Here, the Board acts as an advocate for the public interest, asking review panels and the independent Forest Appeals Commission to make decisions that will foster a fair, effective and efficient Code in support of sound forest practices. The Board monitors all decisions made by review panels around the province. In addition, it receives requests for reviews and appeals from members of the public.

Accomplishments in 2002

The Board defined success for its review and appeal program in 2002 as: being responsive to concerns raised by members of the public; and fostering an interpretation and implementation of the Code that is consistent with its intent. This goal is met by evaluating public requests, monitoring administrative decisions and initiating or participating in administrative appeals when it's in the public interest to do so.

The review and appeal program achieved these goals and, in the process, helped improve forest practices on the ground. The Board considered appealing 14 review panel decisions, and considered whether it should become a party to four licensee appeals. The Board decided to file one appeal of a review panel decision, and joined three appeals filed by licensees.

This year, the Forest Appeals Commission decided seven cases argued by the Board, and the BC Supreme Court rendered a decision on one Board case. Following public requests, the Board also considered reviewing four forest development plans and one range use plan. However, instead of filing official reviews, the Board issued two special reports addressing the issues raised in those requests.

Notably in 2002, a licensee tried to appeal a review panel decision that the Board had argued for and originally won. The Forest Appeals Commission decided it had no grounds to hear the appeal, and upheld the review panel decision—that more adequate consideration had to be given to marbled murrelets when approving a forest development plan.

Given the threatened status of these seabirds, the effect of this decision is potentially significant. In fact, this case and a Board appeal regarding marbled murrelets in the Queen Charlotte Islands have accelerated progress in establishing wildlife habitat areas to conserve this species. Those two areas of the province are now the furthest ahead in establishing wildlife habitat areas for marbled murrelet.

An example of how the Board advocated for the public's interest in

interpretation of the Code is its analysis of how water quality objectives are implemented under the Code. The analysis began when a citizen complained to the Board about the lack of water quality objectives in a community watershed frequented by cattle. Although the Code clearly required removal of cattle from such a watershed if the cattle caused water to fail to meet water quality objectives, the Board discovered that no objectives had actually been set for the watershed.

Furthermore, the Board discovered that this was not unusual—virtually no community watersheds in BC had yet set water quality objectives. Having no such objectives means other Code provisions have no legal grounding. This prompted the Board to inquire into the progress that has been made overall in developing water quality objectives to protect water quality in community watersheds under the Forest Practices Code. The result is a report issued in 2003 on water quality objectives and their role in regulating water quality in community watersheds.

Another important accomplishment for the Board's review and appeal program in 2002 was its appeal of a review panel decision that rescinded a legally issued stopwork order, even though that order had previously been lifted. The Board argued that if legal orders (such as stopwork orders) are too lightly rescinded, field officials could be discouraged from issuing them, and officials should not be discouraged from using a tool that is key to preventing damage before it occurs. The Board also found that licensees go to great lengths to challenge stopwork orders in part because the Ministry of Forests has failed to make it clear, on its forms and in its reporting systems, that a stopwork order is not a finding of contravention. As a result of the appeal, the Ministry of Forests is changing its forms and reporting systems.

In the Board's 2002 survey of participants in reviews and appeals, the following observations were made about the Board's work:

- 83 percent of respondents think the Board is clear and concise in its review and appeal submissions and other public documents;
- 78 percent feel the Board makes its reasons for reviewing and appealing decisions, and its position, clear to all parties;
- 60 percent feel the Board's actions in reviewing and appealing decisions further the public interest;
- 55 percent feel the Board does not attempt to reach solutions prior to going to a hearing wherever possible; and
- 48 percent feel the Board does not act independently when reviewing or appealing decisions.

The fourth finding indicates the need for more alternative dispute resolution on the Board's part, while the fifth finding indicates that the Board needs to better communicate to participants that the review and appeal function is the only area of the Board's work in which it does take a side in an argument.

Issues identified in reviews and appeals in 2002

The Board continued to review whether penalties being imposed under the Code are being applied according to appropriate principles. There were enough cases of interest that the Board published a special report on penalties

and how well they reflect environmental damage. That report is discussed in more detail on page 26.

Coming out of the marbled murrelet cases mentioned previously, the Board's review and appeal section also undertook a special report on the general implementation of the province's marbled murrelet strategy. The report was released in 2003.

Due diligence was another issue of interest to the Board in 2002. The Board participated in an appeal to the BC Supreme Court, which confirmed that due diligence was not a defense for some violations of the Forest Practices Code. The issue in question concerned how the concepts of due diligence and vicarious liability should apply in the situation where a private landowner has hired a contractor who violates the Code. The BC Supreme Court agreed with the Board's view that the liability of a private landowner who hires a contractor is not as absolute as that for a licensee who hires a contractor, because licensees are given the privilege of operating on public land.

Government's new *Forest and Range Practices Act* changes the rules on due diligence, however, so it remains to be seen how this precedent will hold up.

The marbled murrelet, listed as a vulnerable species, may receive greater protection as a result of the Board's review and appeal work

Future direction

The review and appeal section's service plan goals for the coming year are to increase the percentage of participants who feel the Board's work in this area contributes to the public interest from 60 percent to 65 percent, and to complete all decisions on requests for forest development plan reviews within 45 days. The Board worked toward those goals in 2002 and hopes the results of that work—by way of reports published in 2003, such as the marbled murrelet and water quality objectives reports referred to previously—will attest to this.

Adapting to the *Forest and Range Practices Act*

The Board's legal staff reviewed the government's discussion paper on the results-based code in 2002. The Board provided written comments on the discussion paper in June 2002, which are available on our website at http://www.fpb.gov.bc.ca/BOARD/Policies/RBC_comments.pdf

The Board anticipates the new legislation will require us to focus more than ever on "on-the-ground" results. The previous Code was specific and detailed, and as a result, when the Board appealed a penalty or plan approval, it was likely because of a fairly clear violation of a specific rule. In the future, there will be a greater need to consider the achievement of results. This is consistent with the Board's strategic direction.

Appropriate Penalties

The Forest Practices Board has appealed a number of Ministry of Forests decisions about how much weight officials gave to environmental damage when setting financial penalties. A special report published by the Board in 2002, *Forest Practices Code Penalties and Environmental Damage*, illustrates the Board's effectiveness in clarifying the appropriate principles and considerations to be applied when levying Code penalties.

In late 1999, the Board concluded its first case on the issue. A district manager had fined a company almost $13,000 for excessive harvest of trees in a riparian management area.

Silviculture prescriptions called for 25-percent tree retention but actual retention was much lower. When the licensee sought a review of the district manager's decision, the review panel reduced the penalty to zero because they concluded that there had been no environmental damage and little or no economic benefit to the licensee from the contravention.

The Board was concerned that such a precedent could have significant ramifications on future trespass and riparian management cases. We appealed the review panel's decision on the grounds that prescriptions had called for substantial tree retention along the small fish streams in order to protect riparian values and lessen environmental impact of harvesting near the streams. The appeal was successful in restoring the original penalty and clarifying that penalties should reflect both economic and non-economic factors.

Another Board appeal involved salvage harvesting of trees affected by mountain pine beetle near Takla Lake, east of New Hazelton. The company clearcut an area in restricted riparian zones, posing a significant risk to biodiversity of a nearby wetland. The district manager fined the company a total of $39,200 for clearcutting the area, a sum that the licensee then appealed to a review panel. The panel concluded that the effects on riparian values were minimal and directed that the fine be reduced to about $8,000.

The Board appealed this decision, asking the Forest Appeals Commission to direct the district manager to remove all economic benefits the licensee derived from the contravention and to set a penalty that took into account the environmental impact. After reconsideration, a new fine was set at about $36,000. The licensee appealed the fine, but the Forest Appeals Commission upheld it in late 2002.

Through these and other cases, review panels and the Forest Appeals Commission have affirmed the obligation of decision-makers to seriously consider environmental impacts when setting penalty amounts for Code infractions. This means water quality, riparian habitat values, land productivity for commercial timber and other vegetation and wildlife need to be considered. The Crown should be compensated for destruction of all types of public resources, even those without traditional market value.

Public Contact

Publication of Board reports reached another record high in 2002, with 43 reports published. These included 32 complaint investigations, 5 audits, and 6 special reports. The Board continues to minimize the printing of paper copies of reports. Reports are primarily distributed by e-mail now, but printed copies are still available on request.

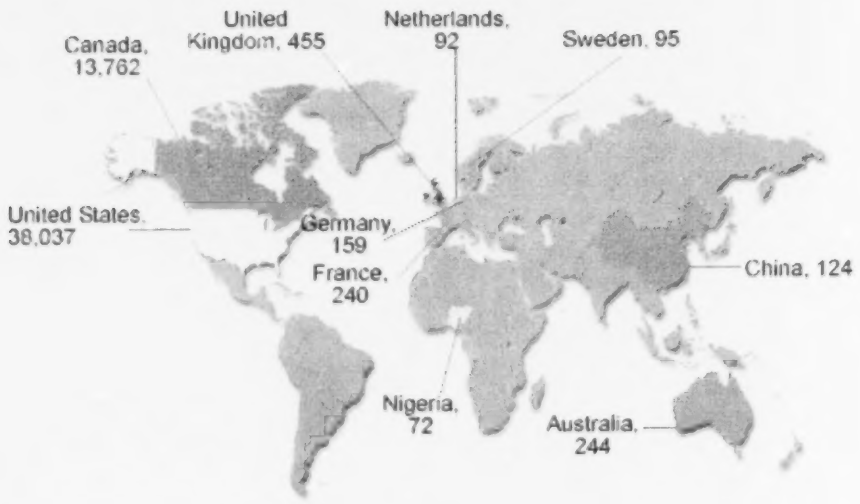
In 2002, the Board did not carry out any community visits. Several Board members were busy concluding work on their files before their appointments expired in March. A delay in appointment of new members left us with just the Chair and Vice-Chair until September.

Our new Board members are becoming familiar with their roles and we hope to be able to visit forest-dependent communities in 2003 to meet with interested groups and persons to discuss forestry issues.

Board members and staff participated in 23 conferences and annual general meetings in 2002. These are important opportunities to find out what the current issues are in the forest industry and in regional communities dependent on forestry. Board members and staff also gave presentations at seven events, covering topics such as range practices, auditing results-based silviculture, and protecting biodiversity. During the year, the Board also met with the State Secretary for Sarawak (the Malaysian part of the Island of Borneo), faculty at Simon Fraser University, representatives of the Sierra Legal Defence Fund and Forest Watch, the Commission for Environmental Cooperation under NAFTA, and many others interested or involved in forestry issues in British Columbia.

The Board participated in an international conference on forest certification in Atlanta, Georgia in April 2002. Interest in the Board was strong, and discussions with representatives of many different countries revealed that BC is quite unique in having an independent watchdog monitoring forest

Most Active Countries by Forest Practices Board Website Visits



practices on behalf of the public. A number of people from the United States and other countries were very supportive of the concept and wondered if a similar organization might serve their own needs. This was also an opportunity for the Board to stay current with developments in the rapidly evolving field of independent forest certification. Learning from this conference has helped the Board with developments related to certification in our audit program.

The Board will be participating in the United Nations World Forestry Congress, which is being held in Quebec City in September 2003. The Ministry of Forests, Ministry of Water, Land and Air Protection and Ministry of Sustainable Resource Management will also be representing BC, along with forest companies and environmental groups. The conference organizers have accepted a paper submitted by the Board, and we will present a workshop on practical considerations for auditing forest practices on the ground. We have valuable understanding and experience that we hope will benefit others involved in independent auditing of forest practices.

In 2002, the Board undertook a survey of those people who have been involved in Board audits, complaint investigations and review and appeal work. We surveyed 220 people to get their views about how well we are meeting our own objectives for service and quality in each program area. The response to the survey was excellent, with over 95 percent of people contacted agreeing to participate. The results were encouraging and have helped to identify our weaknesses. As noted in other sections of this annual report, we are now adjusting our programs to address these weaknesses, and improve the service we provide to the public and to those directly affected by our work.

Adapting to the *Forest and Range Practices Act*

In 2003, the Board will be undertaking a number of communication activities in response to the new *Forest and Range Practices Act*. Our publications and our website will be updated, and we will be informing the public about how we fit into the new legislative framework. Also, there will be a new Chair of the Board in place. We plan to meet with interested groups and organizations to introduce the Chair and the new Board members, and to discuss the Board's role in the new legislative framework. Anyone interested in meeting with the Board should contact us at 1-800-994-5899, or at fpboard@gems9.gov.bc.ca, to arrange a meeting.

Web Site

In September 2002, the Board launched its new website. Since that time, we have been tracking trends in the use of the site. The following information was collected from September 2002 to March 2003.

Most Viewed Documents

1 - Investigation Summary - Bridge Design and Construction at Reiseter Creek near Smithers, BC - 677

2 - Investigation Summary - Volume of Timber Harvesting in Clayoquot Sound - 586

3 - Investigation Summary - Balancing Bark Beetle Harvesting with Other Resource Values at Babine Lake - 562

4 - Investigation Summary - Road Failures on Vedder Mountain near Chilliwack - 426

5 - Investigation Summary - Cattle Grazing near Grand Forks - 425

6 - Investigation Summary - Recreational Access to Mount Seaton in the Bulkley Valley - 400

7 - Special Report - Reviews and Appeals of Forest Practices Code Decisions in British Columbia, 1996-2001 - 382

8 - Investigation Summary - Habitat and Access Management near Flat Lake Park - 337

9 - Investigation Closing Letter - Tindill Creek - 294

10 - Special Report – Public Complaints about Forest Planning and Practices in British Columbia, 1995-2001 - 280

Top Downloads

1 - A Special Report On The Use Of Water Quality Objectives Under Forest Practices Legislation: Lessons For The Future.

2 - The Board Comments on the Government's Results-Based Code Discussion Paper

3 - Marbled Murrelet Habitat Management - Considerations for the new *Forest and Range Practices Act*

4 - Fort Nelson Area Audit – Full Report

5 - Forest Practices Board 2002 – 2005 Service Plan

6 - Fort Nelson Area Audit – Board Section 189 Report

7 - Compliance Audit Reference Manual, part 1

8 - Balancing Bark Beetle Harvesting with Other Resource Values at Babine Lake – Investigation Report

9 - Bridge Design and Construction at Reiseter Creek near Smithers, BC - Investigation Report

10 - Compliance Audit Reference Manual, part 2

Publications Released in 2002

Special Reports

Forest Practices Code Penalties and Environmental Damage (FPB/SR/07)

Section 41 of the Forest Practices Code - Adequate Management and Conservation of Forest Resources (FPB/SR/08)

Public Complaints about Forest Planning and Practices in British Columbia, 1995-2001 (FPB/SR/09)

Compliance and Enforcement Audits of Forest Planning and Practices in British Columbia, 1996-2001 (FPB/SR/10)

Effects of Cattle Grazing near Streams, Lakes and Wetlands - A results-based assessment of range practices under the Forest Practices Code in maintaining riparian values (FPB/SR/11)

Reviews and Appeals of Forest Practices Code Decisions in British Columbia, 1996-2001 (FPB/SR/12)

Special Investigation Reports

Management and Conservation of Caribou Habitat in the Cariboo Region (FPB/SIR/09)

Audit Reports

Skeena Cellulose Inc., TFL 1 - an Audit of Forest Planning and Practices (FPB/ARC/46)

Compliance and Enforcement Audit and Special Report on Range Activity in the Horsefly Forest District (FPB/ARC/47)

Audit of Forest Planning and Practices and Forest Practices Code Enforcement on Nisga'a Lands (FPB/ARC/48)

Squamish Forest District Small Business Forest Enterprise Program - an Audit of Forest Planning and Practices (FPB/ARC/49)

Fort Nelson Area Audit - an Audit of Forest Planning and Practices and Forest Practices Code Enforcement in the Fort Nelson Forest District (FPB/ARC/50)

Complaint Investigation Reports

Timber Harvesting and Fishing Lodge Interests near Morrison Arm (FPB/IRC/59)

Concern About a Logging Road Extension and Wildlife Habitat near Kinbasket Reservoir (FPB/IRC/60)

Cattle Grazing near Noke Creek (FPB/IRC/61)

Appropriateness of Government Enforcement of the Code in Haida Gwaii - the Queen Charlotte Islands (FPB/IRC/62)

Potential Impacts of Logging on Water, Fisheries and Wildlife Habitat in the Lussier River Watershed (FPB/IRC/63)

Mountain Pine Beetle Salvage and Road Access Through a Proposed Protected Area (FPB/IRC/64)

Impact of Harvesting on Bowlder Creek and the Pine River (FPB/IRC/65)

Visual Quality and Water Resource Management in the Mission Creek Community Watershed (FPB/IRC/66)

Water Quality in the July Creek Watershed (FPB/IRC/67)

Effects of the Macdougall Creek Bridge on Access to the East Side of Babine Lake (FPB/IRC/68)

Approval of Large Cutblocks to Control Mountain Pine Beetle in the Robson Valley (FPB/IRC/69)

Adequacy of Water Quality in the Shawnigan Lake Community Watershed (FPB/IRC/70)

Adequacy of Public Review Period near McBride (FPB/IRC/71)

Cattle Grazing in a Community Watershed near Salmon Arm (FPB/IRC/72)

Construction of Waterbars on Puggins Mountain Road (FPB/IRC/73)

Small Business Forest Enterprise Program FDP for Southeast Vancouver Island (FPB/IRC/74)

Removal of Wildlife Information from a Forest Development Plan for Knight Inlet (FPB/IRC/75)

Conservation of Biodiversity and Wildlife Habitat in Forest Development Planning on the Sunshine Coast (FPB/IRC/76)

Bonaparte Lake (FPB/IRC/77)

Balancing Community Needs and Pine Beetle Logging in the Robson Valley (FPB/IRC/78)

Habitat and Access Management near Flat Lake Park (FPB/IRC/79)

Recreational Access to Mount Seaton in the Bulkley Valley (FPB/IRC/80)

Sechelt Boundary (FPB/IRC/81)

Balancing Bark Beetle Harvesting with Other Resource Values at Babine Lake (FPB/IRC/82)

Quesnel Range (FPB/IRC/83)

Tindill Creek near McBride (FPB/IRC/84)

Approval of a Cutblock near Fort Nelson without Public Review (FPB/IRC/85)

Bridge Design and Construction at Reiseter Creek near Smithers, BC (FPB/IRC/86)

Volume of Timber Harvesting in Clayoquot Sound (FPB/IRC/87)

Consideration of a Trapper's Interests in Approval of a Road Deactivation in the Columbia Forest District (FPB/IRC/88)

Cattle Grazing near the Kettle River in the Boundary Forest District (FPB/IRC/89)

Road Failures on Vedder Mountain in the Chilliwack Forest District (FPB/IRC/90)

Glossary of Terms

ADMINISTRATIVE PENALTY is a penalty levied by any BC ministries-Forests; Water, Land and Air protection; or Energy and Mines-against a person who has contravened the Forest Practices Code (the Code).

ADMINISTRATIVE REVIEW is a BC government review of certain types of determinations. It can lead to confirmation, cancellation or variation of the determination, or to a new determination.

AGREEMENT HOLDER is the holder of an agreement under British Columbia's Forest Act or Range Act.

COMPLIANCE is when the auditor finds that practices meet Code requirements.

COMPLAINT is a matter brought to the Forest Practices Board in writing. It includes information specified in the "Notice of Complaint."

COMPLAINT ASSESSMENT is the process by which the Forest Practices Board determines whether or not it must investigate a complaint.

CONTRAVENTION PENALTY was created by Bill 47, 1997 but is not yet in force. It is an administrative penalty for contravention of the Forest Practices Code and takes into account a number of factors, including the effect of the contravention on the government's ability to adequately manage and conserve forest resources.

CONCERN is a matter brought to the Forest Practices Board's attention, but not filed as a formal complaint.

DETERMINATION is an act, omission, decision, procedure, levy, order, or other action made or taken by an official under authority of the Code.

FOREST APPEALS COMMISSION is the independent tribunal that hears appeals from administrative review decisions made under the Forest Practices Code.

FOREST PRACTICES BOARD is the independent watchdog for sound practices in British Columbia. The Board works on behalf of the public interest.

FULL-SCOPE AUDIT is an audit of forest practices for performance under all of the requirements of the Forest Practices Code.

LIMITED-SCOPE AUDIT is an audit of forest practices for performance under some, but not all, of the requirements of the Code.

- NOT SIGNIFICANT NON-COMPLIANCE is when the auditor, upon reaching a non-compliance conclusion, determines that a non-compliance event, or the accumulation and consequences of a number of non-compliance events, is not significant and is not considered worth reporting.

PARTY is the government or the agreement holder(s) under the Forest Act or the Range Act.

PERFORMANCE PENALTY was created by Bill 47, 1997 but is not yet in force. It is an administrative penalty in addition to a contravention penalty, imposed where the licensee did not exercise due diligence.

PROPER FUNCTIONING CONDITION: The ability of a riparian area to withstand normal peak flood events without experiencing accelerated soil loss, channel movement or bank movement, filter runoff, and store and safely release water.

REMEDIATION ORDERS to an agreement holder are orders to do work to remedy a Forest Practices Code contravention, including any damage done to the land.

RIPARIAN: an area of land adjacent to a stream, river, lake or wetland that contains vegetation that, due to the presence of water, is distinctly different from the vegetation of adjacent upland areas.

ROAD DEACTIVATION, which is done during periods of commercial harvesting inactivity, consists of measures to stabilize roads and logging trails. It includes controlling drainage, removing side-cast where necessary, and re-establishing vegetation for permanent deactivation.

SIGNIFICANT BREACH may follow a non-compliance conclusion, if the auditor determines that significant harm has occurred or is beginning to occur to persons or the environment as a result of the non-compliance event or condition. A significant breach can also result from the cumulative effect of a number of non-compliance events or conditions. If a possible significant breach is identified, the auditor must conduct tests to determine its extent. If it is clear from those tests that a significant breach has occurred, the auditor must then immediately advise the Forest Practices Board, the party being audited, and the three ministers.

SIGNIFICANT NON-COMPLIANCE also follows a non-compliance conclusion-after the auditor has reached a non-compliance conclusion-when the auditor assesses that the non-compliance event or condition, or the accumulation of a number of non-compliance events or conditions, is significant.

SMALL BUSINESS FOREST ENTERPRISE PROGRAM (SBFEP) is a Ministry of Forests program that enables registered individuals or companies to acquire rights to harvest Crown timber under a timber sale licence. Responsibility for most forestry planning and management requirements is held by the Ministry of Forests.